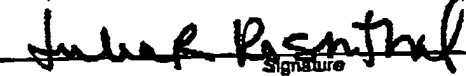


PTO/SB/26 (09-04)

Approved for use through 07/31/2006, OMB 0861-0881
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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT	Docket Number (Optional) 514182000120
In re Application of: Che-Kun James SHEN Application No.: 10/014,220 Filed: November 9, 2001	
For: HS-40 ENHANCER-CONTAINING VECTOR IN TRANSGENIC ANIMALS	
<p>The owner, <u>Academia Sinica</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent No. <u>6,303,845</u> as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:</p> <ul style="list-style-type: none"> expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321; has all claims canceled by a reexamination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer. <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1091 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record. Reg. No. <u>54,410</u></p> <p style="text-align: center;">  _____ Signature </p> <p style="text-align: right;"> <u>January 19, 2005</u> _____ Date </p> <p style="text-align: center;"> <u>Julia R. Rosenthal</u> _____ Typed or printed name </p> <p style="text-align: right;"> <u>(415) 268-7305</u> _____ Telephone Number </p> <p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) is included.</p> <p><small>*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/06 may be used for making this certification. See MPEP § 324.</small></p>	

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Application No.: 10/014,220

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Docket No.: 514162000120

REMARKS

Applicant thanks the Examiner for withdrawing the finality of the previous Office Action in response to Applicant's timely filed response for continued examination under 37 CFR 1.114, including the fees set forth in 37 CFR 1.17(e).

Claims 21-34 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9-14 of commonly owned U.S. Patent No. 6,303,845. In response, Applicant submits the attached Terminal Disclaimer, disclaiming the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent 6,303,845.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 514162000120. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January 19, 2005

Respectfully submitted,

By: 
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